

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1, 2, 6, and 13 are pending in this application. Claims 3-5, 7-12, and 14-27 were previously canceled without prejudice or disclaimer.

Initially, it is hereby requested that the reference (Translation of International Preliminary Examination Report) included with the Information Disclosure Statement (IDS) filed on July 28, 2004, be acknowledged.

The outstanding Office Action presents a rejection of Claims 1, 2, 6, and 13 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over Yamamoto et al (U.S. Patent No. 6,750,394, Yamamoto).

This outstanding rejection of Claims 1, 2, 6, and 13 under 35 U.S.C. § 102(e)/103(a) as being anticipated by or obvious over Yamamoto is improper, at least for the reason that Yamamoto is not a “prior art” reference.

In this regard, item 4, at the bottom of page 2 of the outstanding Action, notes that Yamamoto is considered to be a valid 35 U.S.C. § 102(e) reference because Applicants “cannot rely upon foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR §1.55,” further noting MPEP §201.05.

However, this lack of the 37 CFR §1.55(a)(4) required English translation and translator's statement (that the translation is an accurate one) have now been overcome as to foreign priority Japanese Application No. 2001-322552 that was filed on October 19, 2001.

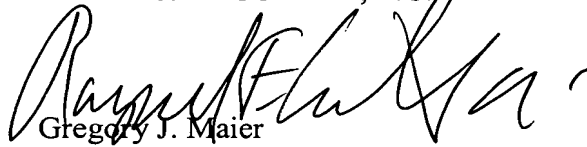
Therefore, as the 35 U.S.C. § 102(e) date of Yamamoto is the U.S. filing date of January 10, 2002, and the perfected foreign priority filing date of this Application is now October 19, 2001 (based upon Japanese Application No. 2001-322552), Yamamoto cannot serve as the basis for a rejection under 35 U.S.C. § 102 or 35 U.S.C. § 103 because

Yamamoto cannot be considered to be a "prior art" reference. Thus, it is respectfully submitted that the withdrawal of the outstanding rejection applied to Claims 1, 2, 6, and 13 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being obvious over Yamamoto is clearly in order.

As it is believe that no other issues remain outstanding in this application, it is believed that this application is in condition for formal allowance and an early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Attorney of Record
Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number
22850

(703) 413-3000
Fax #: (703) 413-2220
GJM:RFC/jmp

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